

HOUSE BILL 567
By Towns

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 6, Part 2, relative to the Tennessee
Pawnbrokers Act of 1988.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-6-201, is amended by deleting the language the "Tennessee Pawnbrokers Act of 1988" and by substituting instead the language the "Tennessee Pawnbrokers and Used Jewelry Store Act".

SECTION 2. Tennessee Code Annotated, Section 45-6-202, is amended by deleting the word "The" from the first sentence and adding the language "The selling of used jewelry through used jewelry stores or".

SECTION 3. Tennessee Code Annotated, Section 45-6-202(1), is amended by inserting the language "or used jewelry stores" after the word "pawnshops" where such word appears.

SECTION 4. Tennessee Code Annotated, Section 45-6-202(1), is further amended by adding the language "and used jewelry stores" after the word "pawnbrokers".

SECTION 5. Tennessee Code Annotated, Section 45-6-203, is amended by adding the following language as a new subdivision:

() "Used jewelry store" means any person, partnership or corporation engaged in the business of purchasing used jewelry for resale from individuals, dealers and traders;

SECTION 6. Tennessee Code Annotated, Section 45-6-204, is amended by adding the following language as a new subsection:

(c) A used jewelry store licensed pursuant to this part has the power to purchase used jewelry for resale from individuals, dealers and traders and to use its capital and funds in any lawful manner within the general scope and purposes of its creation.

SECTION 7. Tennessee Code Annotated, Section 45-6-205, is amended by deleting the language “business of pawnbroking” and by inserting the language “business of pawnbroking or selling used jewelry”.

SECTION 8. Tennessee Code Annotated, Section 45-6-206(a), is amended by inserting the language “or a license to sell used jewelry” after the language “pawnbroker’s license”.

SECTION 9. Tennessee Code Annotated, Section 45-6-206(2), is amended by adding the language “or licensed used jewelry store” after the language “licensed pawnbroker”.

SECTION 10. Tennessee Code Annotated, Section 45-6-206, is amended by deleting subsections (b) and (c) in their entirety and by substituting instead the following language:

(b) Despite a person's eligibility for a pawnbroker's license or license to own and operate a used jewelry store under subsection (a), the county clerk shall find ineligible an applicant who has a prior felony conviction within ten (10) years next preceding which:

(1) Directly relates to the duties and responsibilities of the occupation of a pawnbroker or selling used jewelry; or

(2) Otherwise makes the applicant presently unfit for a pawnbroker's license or license to own and operate a used jewelry store.

(c) If an applicant for a pawnbroker's license or license to own and operate a used jewelry store is a business entity, the eligibility requirements of subsections (a) and (b) apply to each operator or beneficial owner, and as to a corporation, to each officer, shareholder, and director.

SECTION 11. Tennessee Code Annotated, Section 45-6-207(a), is amended by deleting the language “business of pawnbroker” and by substituting instead the language “business of pawnbroker or selling used jewelry”, and by deleting the language “such pawnbroker” and by substituting instead the language “such pawnbroker or used jewelry”.

SECTION 12. Tennessee Code Annotated, Section 45-6-207(b)(5), is amended by deleting the language “pawnbroker business” and by substituting instead the language “pawnbroker or used jewelry business”.

SECTION 13. Tennessee Code Annotated, Section 45-6-208, is amended by deleting the language “business of pawnbroker” and by substituting instead the language “business of pawnbroker or of selling used jewelry”.

SECTION 14. Tennessee Code Annotated, Section 45-6-209, is amended by adding the following language as a new subsection:

(i)

(1) Every person in the business of selling used jewelry shall;

(A) Keep a consecutively numbered record of each and every purchase of used jewelry from an individual, retailer or trader;

(B) Enter upon the copy of its records, the following information, which shall be typed or written in ink and in the English language:

(i) A complete and accurate description of the jewelry including, without limitation, the following information, if applicable:

(a) Size;

(b) Color, as apparent to the untrained eye;

(c) Precious metal type, content and weight, if indicated;

(d) Gemstone description, including the number of stones;

(e) Brand name and model, if any, of watches and other item as appropriate; and

(f) Any other unique identifying information;

(ii) The date of the transaction;

(iii) The amount of cash paid for the item;

(iv) The exact value of property as stated by the seller;

(v) The name, race, sex, height, weight, date of birth, residence address and numbers from the items used as identification. Acceptable items of identification are one (1) of the following documents:

(a) A state-issued driver license;

(b) A state-issued identification card;

(c) A passport;

(d) A valid military identification;

(e) A nonresident alien border crossing card;

(f) A resident alien border crossing card; or

(g) A United States immigration and naturalization service identification;

(C) As a pilot project, in any county having a population in excess of eight hundred thousand (800,000), and in any county having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eighty-two thousand one hundred (382,100) according to the 2000 federal census or any subsequent federal census, take the right thumbprint of the seller of the jewelry, provided that if taking the right thumbprint is not possible the used jewelry store owner shall take a fingerprint from the left thumb or another finger and shall identify on its records which finger has been used. A thumb or

fingerprint taken pursuant to this subdivision shall be maintained by the used jewelry store for a period of five (5) years from the date of the transaction.

(2) The seller shall sign the records of the used jewelry store providing the seller's residence address.

(3) These records shall be delivered to the appropriate law enforcement agency, by mail or in person, within forty-eight (48) hours following the day of such transactions. Delivery by mail shall be deemed made when deposited in the United States mail, postage prepaid. Further, these records shall be made available for inspection each business day, except Sunday, by the sheriff of the county and the chief of police of the municipality in which the used jewelry store is located.

(4) These records shall be a correct copy of the entries made of the transaction and shall be carefully preserved without alteration and shall be available during regular business hours for inspection by the appropriate law enforcement officers as herein provided.

(5) In any county having a population of more than eight hundred thousand (800,000) according to the 1990 federal census or any subsequent federal census, each licensed used jewelry store owner shall retain these records for a period of one (1) year. After such time these records shall be delivered to the appropriate law enforcement agency in the county.

(6) A violation of this subsection is a Class A misdemeanor.

SECTION 15. Tennessee Code Annotated, Section 45-6-212, is amended by designating the existing language as subsection (a) and by adding the following language to be designated as subsection (b):

(b) A used jewelry store business shall not:

(1) Purchase property from a person under eighteen (18) years of age, nor from anyone who appears intoxicated, is known to such used jewelry store to be a thief, or to have been convicted of larceny, burglary or robbery, without first notifying a police officer;

(2) Accept any waiver, in writing or otherwise, of any right or protection accorded a seller under this part;

(3) Purchase used jewelry for such owner's own personal use;

(4) Take any article from any person, which article is known to such owner to be stolen;

(5) Sell, exchange, barter, or remove from the used jewelry store's place of business for a period of forty-eight (48) hours after making the report as provided in § 45-6-209; and

(6) Keep open such used jewelry store before eight o'clock a.m. (8:00 a.m.) or after six o'clock p.m. (6:00 p.m.) of any day during the year, with the exception of thirty (30) days before Christmas, meaning November 25 through December 24, of each year, and then the used jewelry store owner may open such place of business at eight o'clock a.m. (8:00 a.m.) and shall be entitled to close same at nine o'clock p.m. (9:00 p.m.).

SECTION 16. Tennessee Code Annotated, Section 45-6-213, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) When any person sells jewelry to a used jewelry store or property to a pawnbroker or pledges property as security for a loan, the pawnbroker or used jewelry store, as the case may be, shall obtain and record the information provided for in § 45-6-209(b)(6) or section 14, as appropriate, and obtain a statement of the seller or pledgor that the seller or pledgor is the lawful owner of such item, as provided in § 45-6-211(d) or as provided in this act if selling to a used jewelry store, and have the record signed by

the person from whom the pawnbroker or used jewelry store receives the property. This record shall be made available to any law enforcement agency or officer upon request.

(b)

(1) The party asserting ownership of any property, which the party alleges is stolen and which is in the possession of a pawnbroker or used jewelry store, may recover such property by making a report to any law enforcement agency of the location of such property and providing the law enforcement agency with proof of ownership of the property, provided, that a report of the theft of the property was made to the proper authorities within thirty (30) days after obtaining knowledge of the theft or loss; and provided further, that the party asserting ownership will assist in the prosecution of the party pawning or selling such item. Upon the receipt of such proof of ownership, any law enforcement officer is authorized to recover the property from the pawnbroker or used jewelry store, without expense to the rightful owner thereof, unless the pawnbroker or owner of the used jewelry store presents evidence of having received proof of ownership of such property by the person who sold same to pawnbroker or used jewelry store or pledged the property as security for a loan. Any property recovered from a pawnbroker or used jewelry store, pursuant to this section, shall be returned to the rightful owner thereof, subject to evidence in any criminal proceeding.

(2) In the event that the party asserting ownership of the pawned or sold article has provided such timely report of the theft and/or loss of such article, and the pawnbroker or owner of the used jewelry store presents acceptable evidence to the law enforcement agency of having received proper proof of ownership from the person selling or pledging the property, then and only then shall it be

understood the law enforcement agency has satisfied its processes, duties and responsibilities. It shall then inform the party alleging ownership that it will be necessary for that person to commence an appropriate civil action for the return of the items within thirty (30) days of receiving such notice. The pawnbroker or owner of the used jewelry store shall not be required to surrender such property to any law enforcement officer or agency or any other person absent an appropriate warrant.

(3) If for any reason after the local authorities have seized certain property and are unable to locate the rightful owner thereof after due diligence, then such property can be returned to the pawnbroker or used jewelry store upon the pawnbroker or owner of the used jewelry store executing a hold-harmless agreement to the local authorities pursuant to title 40, chapter 33.

SECTION 17. Tennessee Code Annotated, Section 45-6-216, is amended by deleting the section in its entirety, and by substituting instead the following language:

Upon request from any law enforcement agency, whether city, county, or state, a pawnbroker or owner of a used jewelry store shall furnish the names of all suppliers from whom the pawnbroker or used jewelry store has purchased merchandise for resale. This information is not to be recorded nor sent to any law enforcement agency but shall be maintained at the pawnshop or used jewelry store for a period of at least one (1) year from the date of purchase.

SECTION 18. Tennessee Code Annotated, Section 45-6-217, is amended by deleting the language "Licensed Pawnbroker" and by substituting instead the language "Licensed Pawnbroker or Licensed Used Jewelry Store, as appropriate".

SECTION 19. Tennessee Code Annotated, Section 45-6-218, is amended by inserting the language “or used jewelry store” after the word “pawnshop” wherever such word appears, and by inserting the language “or used jewelry store or stores” after the word “pawnbrokers”.

SECTION 20. Tennessee Code Annotated, Section 45-6-218(b), is amended by adding the following language as a new sentence after the first sentence:

Nor shall subsection (a) apply to violations of § 45-6-212(7) relating to the purchasing of any item of jewelry from any person which is known to the owner of the used jewelry store to be stolen.

SECTION 21. Tennessee Code Annotated, Section 45-6-219(b), is amended by inserting the language “or used jewelry store” after the word “pawnbroker”.

SECTION 22. Tennessee Code Annotated, Section 45-6-221, is amended by deleting the word “pawnbroker” and by substituting instead the language “pawnbroker or used jewelry store”, by deleting the words “information on pledged goods” and by substituting instead the language “information on pledged goods or on used jewelry purchased”, and by deleting the word “pawnshop” and by substituting instead the language “pawnshop or used jewelry store”.

SECTION 23. Tennessee Code Annotated, Section 45-6-222, is amended by deleting the word “pawnbroker” wherever such word is located and by substituting instead the language “pawnbroker or owner of a used jewelry store”.

SECTION 24. Tennessee Code Annotated, Title 45, Chapter 6, Part 2, is amended by adding the following language as a new section:

45-6-225

(a) All used jewelry stores that are required to take and maintain thumb or other prints pursuant to § 45-6-209(b)(7) shall be required to place a sign at least ten inches by fourteen inches (10" X 14") in a prominent location reasonably close in proximity to

the place where the purchase of used jewelry will occur. Such sign shall contain language in bold type substantially similar to the following:

**WARNING! IF YOU SELL USED JEWELRY AT THIS
ESTABLISHMENT YOU WILL BE REQUIRED TO GIVE A THUMBPRINT
BEFORE SUCH TRANSACTION MAY BE COMPLETED AND YOUR
THUMBPRINT MAY BE OBTAINED AND USED BY THE POLICE.**

(b) The owner of any used jewelry store who fails to comply with the provisions of this section shall be subject to a civil penalty of one hundred dollars (\$100) and such noncompliance shall be grounds for the suspension of such used jewelry store's license.

SECTION 25. This act shall take effect July 1, 2005, the public welfare requiring it.